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26875 7590 10/18/2004

WOOD, HERRON & EVANS, LLP
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William R. Allen, R. No. 48,389	(Depositor's name)
<i>William R. Allen</i>	(Signature)
January 18, 2005	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,871	11/29/2001	Paul Francis Day	SÖMM-03-107	1599

TITLE OF INVENTION: SAMPLE TUBES WITH FLUID-TIGHT LABELS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	XXXX \$1400	\$300	XXXX \$1700	01/18/2005
EXAMINER		ART UNIT	CLASS-SUBCLASS		
ALEXANDER, LYLE		1743	422-102000		

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1 Wood, Herron & Evans, L.L.P.
2 _____
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(A) NAME OF ASSIGNEE

Advanced Biotechnologies Limited

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

United Kingdom

Please check the appropriate assignee category or categories (will not be printed on the patent): Individual Corporation or other private group entity Government

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5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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Authorized Signature

William R. Allen

Date January 18, 2005

Typed or printed name William R. Allen

Registration No. 48,389

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PATENT

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William R Allen
William R. Allen, Reg. No. 48,389

18 January 2005
Date

Applicant: Paul Francis Day Confirmation No.:1599
Serial No.: 09/995,871
Filed: November 29, 2001
Examiner: Lyle Alexander
Group Art Unit: 1743
Title: **SAMPLE TUBES WITH FLUID-TIGHT LABELS**
(Formerly: **IMPROVED TUBES**)
Attorney Docket No.: SOMM-03

Cincinnati, Ohio 45202

January 18, 2005

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Commissioner for Patents
P.O. Box 1450
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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Sir:

Applicant's undersigned counsel notes the Examiner's Statement of Reasons for Allowance attached with the Notice of Allowability. The reasons set forth by the Examiner refer only to some of the features in independent claims 2, 37, and 44, and are not the only reasons that all of the claims are allowable.

With respect to independent claim 2, the prior art does not disclose or suggest a sample tube assembly comprising a tube portion having a bottom, an end cap mounted to the

bottom of the tube portion and providing a substantially fluid-tight seal therewith, a label chamber defined by a substantially fluid-tight space between the bottom of the tube portion and the end cap, and a label having an optically readable code and encapsulated inside the label chamber, wherein the end cap includes a region over the label that is sufficiently transparent for the optically readable code to be read through the end cap region from below the bottom of the tube portion. Claims 3-19 and 29-36 depend either directly or indirectly from independent claim 2. Accordingly, each of these claims is believed to be allowable for at least the same reasons as claim 2, and upon other features recited in dependent claims 3-19 and 29-36 but not discussed specifically herein.

With respect to independent claim 37, the prior art does not disclose or suggest an apparatus for holding a sample comprising a label including an optically readable code, and a body including a cavity, an opening through which the sample can be inserted into said cavity, and a substantially liquid-tight chamber encapsulating said label, at least a region of said body being sufficiently transparent to facilitate optically reading said optically readable code through said transparent region. Claims 38-43 depend either directly or indirectly from claim 37. Accordingly, each of these claims is believed to be allowable for at least the same reasons as independent claim 37, and upon other features recited in claims 38-43 but not discussed specifically herein.

With respect to independent claim 44, the prior art does not disclose or suggest an apparatus for holding a sample comprising a label having an optically readable code, a tube portion including a top end, a bottom end, a cavity, and an opening defined proximate said top end for inserting the sample into said cavity, and an end cap having a substantially liquid-tight

seal with said bottom end of said tube portion to define a chamber between said end cap and said tube portion, said label encapsulated inside said chamber and oriented such that said optically readable code faces away from said first cavity, and said end cap having a region sufficiently transparent to read said optically readable identifier from below said tube portion. Claims 45-48 depend either directly or indirectly from claim 44. Accordingly, each of these claims is believed to be allowable for at least the same reasons as independent claim 44, and upon other features recited in claims 45-48 but not discussed specifically herein.

The Examiner refers to the “remarks of record” in the Statement of Reasons for Allowance. With specific regard to the Interview Summary mailed July 8, 2004, Applicant's undersigned counsel would like to emphasize for the record that, despite statements made by the Applicant that “the prior art fails to teach permanent attachment of an end cap that contains the optically readable code,” the allowed claims are not limited to permanent attachment of an end cap. In contrast, allowed independent claim 2 only recites that the end cap is “mounted to” the bottom of the tube. Allowed independent claim 37 does not recite an end cap and allowed independent claim 44 recites an end cap that has “a substantially fluid-tight seal” with a bottom portion of a tube portion. Therefore, independent claims 2, 37, and 44 are limited to permanent attachment of an end cap. In fact, the Examiner’s reasons for allowance state that the Examiner considered the end cap to be “removable.”

Applicant's undersigned counsel would like to emphasize for the record that the allowed claims are not limited to a “fluid tight space” or “a fluid tight chamber.” Allowed independent claim 2 recites a “substantially fluid tight space.” Allowed independent claim 37 recites a “substantially liquid tight chamber.” Allowed independent claim 44 recites an end cap

that has "a substantially fluid tight" seal with a bottom end of a tube portion. Hence, the allowed claims are not limited to absolute fluid tightness or to absolute liquid tightness.

If the Examiner disagrees with any of these comments, he is respectfully requested to provide further explanation on the record.

Applicant does not believe that any fees are due in connection with this submission. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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